

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

VICTORIA BORDIGNON,)	Civ. No. 08-00372 SOM-BMK
)	
Plaintiff,)	FINDINGS AND
)	RECOMMENDATION TO
vs.)	DISMISS THIS ACTION
)	
AMERICAN HOME MORTGAGE)	
CORPORATION, ET AL.,)	
)	
Defendants.)	
)	

FINDINGS AND RECOMMENDATION TO DISMISS THIS ACTION

On August 18, 2008, Plaintiff filed this action against Defendants American Home Mortgage Corp. and Approved Mortgage, Inc. This Court previously found that this action “was filed . . . more than a year after the bankruptcy action was filed 8/6/2007 by American Home Mortgage Holdings, Inc. in the United States Bankruptcy Court for the District of Delaware.” (Doc. 58.) Indeed, the Suggestion of Bankruptcy states that, “on August 6, 2007, voluntary petitions were filed in the [bankruptcy court by] American Home Mortgage Corp.” (Id. at Ex. A.) According to that document, “an injunction was placed into effect which stays . . . the commencement . . . of all judicial, administrative or other actions or proceedings against [American Home Mortgage Corp.].” (Id.)

Based on the Suggestion of Bankruptcy and the injunction that stayed commencement of actions against American Home Mortgage Corp., this Court issued an Order to Show Cause, noting that “This action was stayed after notification that Defendant American Home Mortgage filed bankruptcy on or about August 6, 2007.” (Doc. 59.) The Court ordered Plaintiff to appear on April 10, 2013 “to show good cause, if any, why this case should not be dismissed pending the bankruptcy stay that was filed on August 6, 2007, more than a year before this case was filed.” (Id.)

Plaintiff did not file a response to the Order to Show Cause. On April 10, 2013, this Court was prepared to hold the show cause hearing as scheduled. However, Plaintiff did not appear, nor did she make arrangements with the Court to appear by phone.

The Court finds that Plaintiff failed to show good cause why this case should not be dismissed in light of the bankruptcy stay that has been in effect since August 6, 2007. Moreover, Plaintiff previously informed the Court that she filed a claim in the bankruptcy court, suggesting that she is pursuing her claims in the bankruptcy proceeding. In light of Plaintiff’s failure to appear at the show cause hearing or otherwise respond to the Order to Show Cause, the Court FINDS and RECOMMENDS that this action be DISMISSED.

DATED: Honolulu, Hawaii, April 15, 2013.

IT IS SO ORDERED.



/S/ Barry M. Kurren
Barry M. Kurren
United States Magistrate Judge

Bordignon v. American Home Mortgage Corp. et al., Civ. No. 08-00372 SOM-BMK;
FINDINGS AND RECOMMENDATION TO DISMISS THIS ACTION.